



Case No. 2019-00850-FOIA-OS

August 8, 2019

Ms. Emily Crose
MuckRock News
DEPT MR 72794
411A Highland Ave
Somerville, MA 02144-2516

Dear Ms. Crose:

This clarification letter is in response to your May 05, 2019, Freedom of Information Act (FOIA) request. Specifically, you requested the following:

“All internal documentation including emails, memos, voice or video recordings or other inter/intra agency/office communications that include the words "transgender", "Statutory Conscience", "transsexual", or "trans" between the dates of January 2017 through the date of this request (May, 2019).

Please also include any communications that may be responsive to this request that were made by the director of HHS or any of his deputies. (Date Range for Record Search: From 1/1/2017 To 5/6/2019).”

The FOIA allows the public to request access to "reasonably described" existing agency records (subject to any applicable FOIA exemptions to disclosure). This means you must describe the category of records you are seeking or the actual document(s), and provide sufficient details to permit a search with reasonable effort, utilizing existing indices and search tools.

In accordance with [Title 45 Code of Federal Regulations Subtitle A, Subpart B – How to Request Records under FOIA](#), HHS outlined what must be contained in FOIA requests to allow staff to locate requested records with a reasonable amount of effort. As set out in HHS FOIA [Regulations](#),

“..... a written description of the records you seek in sufficient detail to enable our staff to locate them with a reasonable amount of effort. The more information you provide, the better possibility we have of finding the records you are seeking. Information that will help us find the records would include:

- (1) The agencies, offices, or individuals involved;
- (2) The approximate date(s) when the records were created;
- (3) The subject, title, or description of the records sought; and
- (4) Author, recipient, case number, file designation, or other reference number, if

available.”

This letter is to obtain clarification regarding the subject matter of your FOIA request. Unfortunately, you have not described the records with enough specificity to allow us to continue with the processing of your request. Per line one (1) of the HHS FOIA Regulations outlined above, your request did not identify the names of the specific individuals within HHS whose correspondence you wish to obtain.

The Office of the Chief Information Officer reports due to technology constraints, HHS cannot run a blind search against all users in HHS or an operating/staff division. Electronic searches run against our live email system and a search against all HHS employees would crash our system.

Regarding the search terms, we would need the domain names for each entity in the list so that we could identify emails to or from a custodian to those entities. For example, “emails to or from Jane Doe (Jane.Doe@hhs.gov) and @organization.org or @commercial_entity.com” with specific key words and date ranges.

If we get the names of the specific individuals within HHS, we can run the search. If all the parameters (timeframes, key words, etc.) are the same, we can run the search against multiple custodians simultaneously.

At this time, we have placed your request in “tolled” status. Therefore, please clarify and describe the records you are seeking, by sending an email to Elizabeth.Webb@hhs.gov, of my staff, at FOIARequest@hhs.gov or calling at (202)-690-7453.

After you further advise us what records you are seeking, we can begin to process your FOIA request.

HHS “may deny your request for other reasons, including that a request does not reasonably describe the records sought” in accordance with the HHS FOIA [Regulations](#) cited in paragraph three. If you have not contacted our office within 20 business days from the date of this letter, your request will be administratively closed. Therefore, no action on your part is needed, if you no longer have a need for the records.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Brandon J. Gaylord', written in a cursive style.

Brandon J. Gaylord
Supervisory Government Information Specialist
and HHS FOIA/PA Public Liaison